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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,873	05/15/2008	Lisa M. Coussens	23540-09361	2367

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EXAMINER	
BOWMAN, AMY HUDSON	
ART UNIT	**PAPER NUMBER**
1635	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/567,873	COUSSENS ET AL.	
	Examiner	Art Unit	
	AMY BOWMAN	1635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 February 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-44* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-44* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-4, 7, 8, and 42-44, drawn to a method comprising administering to a subject in need of treatment an effective amount of an agent to modulate the level and/or activity of TGF-β, wherein the agent is an **antagonist,** more specifically an antisense oligonucleotide. Election of this group requires further election of one species of disease states from claims 42-44, as explained below.
Group II, claims 1-3, 7, 9-13, and 42-44, drawn to a method comprising administering to a subject in need of treatment an effective amount of an agent to modulate the level and/or activity of TGF-β, wherein the agent is an **antagonist,** more specifically a small molecule. Election of this group requires further election of one species of small molecules from claims 10-13; and one species of disease states from claims 42-44, as explained below.
Group III, claims 1-3, 7, 14-20, and 42-44, drawn to a method comprising administering to a subject in need of treatment an effective amount of an agent to modulate the level and/or activity of TGF-β, wherein the agent is an **antagonist,** more specifically a monoclonal antibody. Election of this group requires further election of one species of monoclonal antibody from claims 15-20; and one species of disease states from claims 42-44, as explained below.
Group IV, claims 1-3, 7, 21, and 42-44, drawn to a method comprising administering to a subject in need of treatment an effective amount of an agent to modulate the level and/or activity of TGF-β, wherein the agent is an **antagonist,** more specifically a polyclonal antibody. Election of this group requires further election of one species of disease states from claims 42-44, as explained below.
Group V, claims 1, 5, 6, 22, 23, and 42-44, drawn to a method comprising administering to a subject in need of treatment an effective amount of an agent to modulate the level and/or activity of TGF-β, wherein the agent is an **agonist,** more specifically an oligonucleotide. Election of this group requires further election of one species of disease states from claims 42-44, as explained below.

Group VI, claims 1, 5, 6, 22, 24-27, and 42-44, drawn to a method comprising administering to a subject in need of treatment an effective amount of an agent to modulate the level and/or activity of TGF-β, wherein the agent is an **agonist,** more specifically a small molecule. Election of this group requires further election of one species of small molecules from claims 24-27, and one species of disease states from claims 42-44, as explained below.
Group VII, claims 1, 28, 29, and 42-44, drawn to a method comprising administering to a subject in need of treatment an effective amount of an agent to modulate the level and/or activity of TGF-β, wherein the agent is an anti-fibrotic agent reducing collagen synthesis, more specifically Halofuginone. Election of this group requires further election of one species of disease states from claims 42-44, as explained below.
Group VIII, claims 1, 30-36, and 42-44, drawn to a method comprising administering to a subject in need of treatment an effective amount of an agent to modulate the level and/or activity of TGF-β, wherein the agent is an anti-fibrotic agent reducing collagen crosslinking. Election of this group requires further election of one species of anti-fibrotic agents from claims 31-36; and one species of disease states from claims 42-44, as explained below.
Group IX, claims 1 and 37-44, drawn to a method comprising administering to a subject in need of treatment an effective amount of an agent to modulate the level and/or activity of TGF-β, wherein the agent is a protease inhibitor. Election of this group requires further election of one species of protease inhibitors from claims 38-41; and one species of disease states from claims 42-44, as explained below.

It is noted that claims 1-3 are not restricted because although they recite different outcomes, they do not recite any difference in method steps. Should applicant amend to recite different method steps associated to each outcome, the claims may be subject to additional restriction.

The inventions listed as Groups I-IX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Tzai et al. (Anticancer Res, 1998, 18(3A), pages 1585-1589) teach a method comprising the instant method step of administering a therapeutic agent, more specifically an antisense oligonucleotide (ODN) directed to TGF-beta *in vivo* in tumors. Since Tzai et al. teaches a method of administering a therapeutic agent that inhibits TGF-β in vivo, the method of Tzai et al. would necessarily modulate vascular permeability. Therefore, there is no special technical feature linking the instant groups.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.
The species and the claims deemed to correspond to the species are as follows:

1) Claims 10-13 collectively recite the following species of small molecules: SB-431542, NPC-30345, and LY-364947. Claim 9 is generic.

2) Claims 15-20 collectively recite the following species of monoclonal antibodies: ID11, 2G7, CAT-152, and CAT-192. Claim 14 is generic.

3) Claims 25-27 collectively recite the following species of small molecules: tamoxifen, aspirin, or aspirinate. Claim 24 is generic.

4) Claims 31-36 collectively recite the following species of anti-fibrotic agents: claim 31 recites a transglutaminase or a reducing sugar; horseradish peroxidase, soybean peroxidase, or peroxidase from Arthomyces ramosus. Claim 30 is generic.

5) Claims 42-44 collectively recite the following species of disease states: diabetic retinopathy, psoriasis, cancer, rheumatoid arthritis, atheroma, Kaposi's sarcoma, and haemangioma. Should applicant elect cancer, applicant is further required to elect breast cancer or prostate cancer. Currently claim 1 is generic.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims

subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Each of the small molecules, antibodies, and anti-fibrotic agents are structurally distinct molecules, each requiring a separate and distinct search. A search for any one of the specific agents would not necessarily return art against any of the other agents based upon different structures. There is nothing of record to show that they are obvious variants of each other and they do not each contain a common core.
Furthermore, each of the disease states require consideration of separate and distinct factors and etiologic considerations, each requiring a separate and distinct search and corresponding examination.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does

not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Conclusion

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMY BOWMAN whose telephone number is (571)272-0755. The examiner can normally be reached on Monday-Thursday 6:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James (Doug) Schultz can be reached on (571) 272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMY BOWMAN
Examiner
Art Unit 1635

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Examiner, Art Unit 1635